

DELTA PROTECTION COMMISSION

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DRAFT

Minutes of the Delta Protection Commission
Thursday, February 22, 1996

1. Call to Order/Roll Call.

The meeting was called to order at 6:35 p.m. Commissioners present were: Broddrick, Calone, Curry, Freeman, Herendeen, McCarty, Mello, Potter, Sekelsky, Simas, and Yates. Commissioners absent were: Fargo, Ferreira, McGowan, Murphy, Nottoli, Salmon, Thomson, and Torlakson.

2. Public Comments.

There were no public comments.

3. Minutes of January 25, 1996 Meeting.

Chairman McCarty made a correction to the minutes. Regarding the closed session, he asked that the minutes be amended to read: "There was no action to report from the closed session held at the beginning of the meeting".

There were no further changes or corrections to the minutes. On a motion by Commissioner Potter and a second by Commissioner Herendeen, the amended minutes were adopted by unanimous voice vote.

4. Chairman's Report.

Chairman McCarty announced the next meeting of the Commission will be on Thursday, March 28, 1996 at 6:30 p.m. in the Jean Harvie Community Center, Walnut Grove.

He commented that CALFED staff has prepared and distributed 20 different alternatives for resolving Bay-Delta management. He said the Commission had received at the meeting a packet

summarizing those alternatives. From those 20, five to eight alternatives will be refined and then reviewed in an environmental document. This packet highlights the elements seen throughout the 20 alternatives which would affect land use in the Delta Primary Zone. He said he has prepared a letter to CALFED asking that the alternatives support bringing all Delta levees to the PL-99 standard; currently the alternatives recommend PL-99 standard levees for only some islands; the rest would be brought to HMP standard only.

Ms Aramburu added that the cover memo outlined the factors which would affect land uses in the Primary Zone.

Commissioner Potter stated that the process includes 14 state and federal agencies and an advisory council made up of 35 citizens. He said there will be public hearings throughout the State during the month of April, and a limited number of alternatives will be selected for review in the environmental review process.

Chairman McCarty urged that the Commissioners review the alternatives and noted that four alternatives include an isolated conveyance facility.

Chairman McCarty stated that BioGro sued the Commission in state court regarding Utilities and Infrastructure Policy P-3 (P-3). The judge determined that P-3 is a regulation and because it was not adopted as a regulation it is not enforceable. In order to be enforceable, regulations must be adopted in conformance with the requirements of the Administrative Procedure Act, and then submitted to and approved by the Office of Administrative Law (OAL). He added that the Commission discussed the lawsuit in closed session at the last meeting and reached a tentative decision which was confidential at that time due to conditions which needed to be addressed by counsel between meetings. Since those conditions had been addressed, he announced that the Commission has decided not to appeal the judge's decision, and will comply with the decision. Utilities and Infrastructure Policy P-3 is therefore "set aside", and will not be enforced.

He said he had given direction to staff to initiate a rulemaking proceeding in compliance with the Administrative Procedure Act to propose the adoption of P-3 as a regulation. He had asked the Attorney General's Office to inform the Court that the Commission is complying with the Peremptory Writ and has initiated a rulemaking proceeding.

Chairman McCarty said that to start the rulemaking process, a notice will be published by OAL on February 23, 1996, and copies of that notice are available tonight. In addition, because the adoption of the regulation will be an amendment to the Plan, the Commission is required to hold three public hearings. The hearings have been scheduled for:

the next Commission meeting at 6:30 p.m. on March 28, here in Jean Harvie Community Center;

at 10:00 a.m. on Thursday, April 4 at the Roberts Island Union Farm Center on Roberts Island; and

at 10:00 a.m. on Monday, April 8, in the Theater at the Antioch Community Center in Antioch.

He urged as many Commission members as possible attend the public hearings at Roberts Island Union Farm Center and in Antioch; the Commission will be sitting as a "committee of the whole" to receive public testimony, and is not subject to a quorum.

In the interim, the Counties will be the "front line" for evaluating proposals for new sewage treatment plants and for disposal of sewage effluent and sewage sludge. He said he would, as Chairman, write to the Contra Costa, Solano, Yolo, and Sacramento Counties asking their support of the Commission's previously adopted position; San Joaquin County has already adopted a General Plan policy which precludes disposal of sludge and effluent in the Primary Zone.

5. Report from Levee Subcommittee.

Ms Aramburu reported on behalf of the Levee Subcommittee that the Chairman was asked to write a letter of thanks to Office of Emergency Services for assisting in ensuring that the past flood reimbursements were paid and a letter to Federal Emergency Management Agency asking for a response to the State's letter of August 1995 regarding support for Delta levees in the event of an emergency.

6. Attorney General's Report.

Rick Frank reported that he would be attending a luncheon of Sacramento County Bar Association with the topic of "Environmental Issues Associated with Land Application of Municipal Sewage Sludge" and will report back.

7. Executive Director's Report.

Ms Aramburu reported that legislation to extend the Commission has been introduced, the number is SB 1673. The co-sponsors are Senators Johnston and Boatwright, and Assemblymembers Rainey, Machado and Hannigan. She said Commissioner Sekelsky met with Assemblymember Bowler--he said he would probably vote for it, but was not prepared to agree to co-sponsor. She and Commissioner Nottoli would be meeting with Senator Johannesen on Monday.

She said the Secretary for Resources has asked staff to assist in administrative tasks associated with the Delta Levees Advisory Committee which meets to discuss SB 34 issues.

She noted she attended a meeting for Land Trusts sponsored by Trust for Public Lands. The only Delta group there was the Yolo Land Trust. There seems to be a trend for smaller, special focus, land trusts. She forwarded to the Delta land trusts information about two grant programs that were discussed at the meeting.

She said the current of Western Water is on Delta developments; Ducks Unlimited has released a new technical report on the Northern Pintail; the Commission, through the Chair,

agreed to be a sponsor of a workshop on vessel traffic conflicts on waterways used by recreation boaters in Washington DC on Friday May 10 and distributed flyers; the Commission received an updated roster in your packet; the Commission received an errata sheet regarding P-3; and she reminded Commissioners to submit FPPC reports to the Commission.

8. Pending Projects Memo.

Commissioner Mello noted that 39,000 acres are now slated for retirement from agriculture. Commissioner Freeman noted that the Gold Rush City project was approved on February 20, 1996. Commissioner Herendeen suggested removing the two Antioch projects "on hold". Commissioner Potter noted the South Delta Barriers permits should be issued in March and construction underway in April.

9. Briefing on Status of Delta Levees.

Ms Aramburu said she contacted the Flood Center this morning and spoke with Keith Luster, the Coordinator of Field Operations. He said as of that morning, there had been no calls regarding levee problems. He said there has been some sloughing reported along Steamboat Slough, but he categorized that as "maintenance" level. There is "sinkhole" on Twitchell Island--the sinkhole is under observation.

Commissioner Calone said the tides are running about two feet higher than the tide books say.

10. Briefing on Egeria Densa.

Chairman McCarty said at the last meeting, the Commission received public comment and several letters regarding an aquatic plant causing problems in the western Delta. Staff was directed to gather and present additional information.

Ms Aramburu said she prepared a brief memo regarding Egeria densa to provide additional information for the Commission. She found that there has been research with a copper based herbicide

called Komeen, which controls the plant, but does not eradicate it. Assemblyman Rainey has introduced legislation regarding control of Egeria densa (AB 2193) which adds responsibility for control of Egeria densa to the Department of Boating and Waterway's water hyacinth control program.

Commissioners Curry and Yates offered staff experts if the Commission needs additional information. Commissioner Curry identified several problems including: legal, funding, legislative, and staffing.

Commissioner Herendeen noted he had gone to the field and observed the problem; there is a video available, and there has been an offer to take Commissioners out in a boat to observe problems.

Commissioner Mello said exotics can impact agricultural intakes, and suggested the Commission take a position on pending legislation.

Commissioner Yates commented on the problems associated with eradicating exotic plants that can reproduce in a number of ways.

Commissioner Curry suggested the pending legislation addresses only one aspect of the problem.

Chris Lauritzen, harbormaster, Lauritzen Yacht Harbor, Antioch, said there is a horrible problem with Egeria densa, it is worse than the water hyacinth. This year the marina will have to spend several thousand dollars controlling the material. The marinas need relief, as well as in the open water areas. The plant is clogging boat engines and waterways. He offered to take Commissioners out on a boat to observe the situation first hand.

Commissioner Calone asked how long it takes to grow back once its cut; Mr. Lauritzen said about 3 to 4 months, depending on water temperature. He asked if the cut portions die; Mr. Lauritzen said he doesn't know.

Kit Cassaday, District Representative for Senator Johannessen, said he had participated in four hydrilla eradication. He said Egeria densa is almost as bad as hydrilla. He had been aware of the Anderson experiments in Owl Harbor. He said it will be a widespread problem. He offered assistance.

Commissioner Broddrick noted there is no funding attached to the pending legislation and suggested that would not help solve the problems. He asked if the harvested material had any economic value, like kelp; Mr. Cassaday did not know.

Commissioner Potter asked if the plant had been studied in other areas, like San Diego; Mr. Cassaday did not know.

Commissioner Mello asked how it is controlled in South America where it is native; Mr. Cassaday did not know.

Commissioner Yates said Florida did nothing about hydrilla and allowed the plant to overrun the Everglades.

Chairman McCarty said the plant is also in the Stockton area, and is a nuisance to boaters and to personal watercraft, and is worse than the water hyacinth. It is blocking the docks on Rindge Tract and has the potential to be a very serious problem.

Commissioner Yates said it could be a problem as the State Water project.

Commissioner Curry said sometimes a small step is needed, for example DBW sprayed about 3,000 acres of water hyacinth just to control it, but you can buy the plant in any nursery. It may be necessary to cut off sources of exotic plants.

Chairman McCarty asked staff to assemble more information and make it available at the next meeting, borrow the video, and coordinate boat trips at low tide; Ms Aramburu reminded the Commission that only two Commissioners at a time can go on a trip. She said she would research eradication vs. control, actions in other areas, and show the video.

11. Briefing on Oil Spill Prevention and Response Program.

Carl Jochums, Department of Fish and Game, briefed the Commission on the Delta segment of the San Francisco Bay Area Oil Spill Area Contingency Plan. He distributed a handout summarizing his briefing. State and federal government passed legislation in 1990 after big oil spills. Federal agencies involved include Coast Guard and Environmental Protection Agency. State agencies include Department of Fish and Game. The legislation includes the deep water ship channels (Stockton and Sacramento) and the waters near the ship channels. The legislation requires contingency plans for ports. The process is open and many groups participate. In California, there is now a unified command system to respond in an emergency. The contingency plan is quite complex. The purpose of the plan is to get a quick response in an emergency. The area in the plan includes the coastal areas, San Francisco and Suisun Bays, and the Delta.

The planning process started in 1993, but the Delta is behind because there are so many sensitive sites in the overall region. The highest priority for study was those sites with the most oil traffic near the sites. Recently, vessel transportation through the Delta have changed. Now, most oil products are shipped via pipelines and the Antioch and Pittsburg power plants are powered by natural gas.

Mr. Jochums is the Chair of the Sensitive Sites Subcommittee, charged with identifying and prioritizing sensitive sites in the Delta, and determining how to protect the sites from oil spills. Phase One was to identify the sites; Phase Two was to visit the sites and determine protection methods. The Delta is basically all sensitive sites. He used Brown's Island as an example, showing locations to place booms to protect the island. Instead they are now developing "defensible sites"; and setting up strategies of how to protect various waterway segments. For each site there is a description of the site, the actions to be taken and the resources needed to carry out those actions. He needs contacts with those who have special information, especially the reclamation district managers who control the pumps. He noted that the legislation includes the Legal Delta, but only to Highway 4, and does not include the south Delta.

Commissioner Broddrick added that OSPR is about 16% of the DFG budget, and is funded by a 4 cent per barrel tariff on oil transported on the State's waters. He noted that there is not a lot of transport through the Delta, but the fuel in a large ship could be up to 100,000 barrels, enough to cover all the surface waters of the Delta. Booms cannot work in areas over 1.5 knots of water movement. He noted that oil spill damage can only be minimized, not eliminated.

Mr. Jochums said that Commissioner Broddrick was the first enforcement chief of the program. He added that oil is very difficult to recapture once spilled. He said there are lots of sources, such as the storage terminals in Sacramento and Stockton and a 10 inch in diameter pipeline crossing six or seven Delta channels, which carries all the petroleum products for Stockton.

Commissioner Broddrick asked the interest of the reclamations districts to be involved; Commissioner Mello suggested working with the three water agencies, rather than the reclamation districts.

Chairman McCarty asked staff to get contacts for the three water agencies to Mr. Jochums.

Commissioner Curry asked how volatile the materials are; Mr. Jochums said it depends on the product; gas disperses rapidly; diesel, less rapid; and crude slow, but about 25% disperses the first day. Winds and sunlight will accelerate dispersion, in addition to bacteria. Gas in less than seven days. Commissioner Curry asked if small spills from boats in the Delta are a problem; Mr. Jochums said yes, a pint of boat gas is gone quickly but will kill everything it comes into contact with. Lots of little spills will have a cumulative impact on the environment.

Chris Lauritzen, harbormaster, Lauritzen Yacht Harbor, supports the program. He passed around pictures of a spill. He commented that there is a cost issue to help with clean up costs. In a recent spill, he placed booms to contain a spill; he has not been reimbursed for his costs assisting with the clean up.

Ms Aramburu said she would coordinate with Mr. Jochums, review the draft plan, and report to the Commission.

12. Commission Consideration and Possible Adoption of Changes in Work Program to Direct Staff to Prepare a Study of Bringing Delta Levees up to PL-99 Standards or 192-82 Standards.

Chairman McCarty said both the Budget and the Levee Subcommittees have both recommended a study to help the Commission and the Reclamation Districts better understand the amount of work needed to bring the Delta levees to the Corps' PL-99 standards. This is the higher level of safety included in the Commission's adopted Plan.

Ms Aramburu said the Commission has included in the Delta Plan the recommendation that the Delta levees be brought to the PL-99 agricultural standard to increase the stability and reliability of the levees, and to allow the levees to be eligible for Corps assistance in the case of a catastrophic event.

To develop more information about bringing the levees to this standard, a study would be prepared using existing data developed by the Reclamation Districts regarding the existing cross sections, and then developing estimates of the volume of material needed to bring the levees to the PL-99 standard. In addition, staff will seek information about the various sources of suitable material which may become available in the next few years from various sources. Finally, as feasible, staff will develop estimates of the costs of various options such as importing fill versus dredged material. Staff will of course ask for assistance from federal and State agencies, and Reclamation Districts and their contractors. The Commission contract with Teale data center has substantial funds remaining and work to put the results of the study "on line" could be covered by the Commission's existing contract.

The Levee committee suggested that the staff be in two phases. The first phase would be determining what information is currently available, and coordinate with other agencies as to current information and studies. Staff would return to the Commission with a work program and budget for studying perhaps ten islands as outlined above. The Commission would have the

chance to approve this phase. A third phase would include completing this work for the rest of the Delta islands. The purpose would be to provide basic, useful information for the reclamation districts. Some of the work may continue into the next fiscal year.

Chairman McCarty said there have been other studies in the past which incorporate lots of variables beyond the basic cost of building the levee. He said the information sought is the volume of material needed to build the basic flood control structure to the PL-99 standard.

Chris Neudeck, Kjeldsen, Sinnock, and Neudeck, said his firm often does this type of estimating and cautioned the Commission that this is not a simple task. While overlays appear to be a simple way of estimating work, the factors are very complicated. Its more of an engineering task than outlined by staff.

Chairman McCarty agreed, but stated the first step is a reconnaissance and determination of what information is available, and probably seeking assistance in the analysis portion of the study.

Mr. Neudeck noted there are studies underway on the islands adjacent to the EBMUD aqueducts. His firm is doing the studies on behalf of Tom Rosten for Woodward and Jones. The engineering studies cost \$6,000 to \$7,000 per island.

On a motion by Commissioner Broddrick and a second by Commissioner Simas, the motion was passed unanimously by voice vote.

13. Commissioner Comments.

Commissioner Potter noted there is a Congressional hearing in Stockton on Friday March 23, 1996, on San Joaquin County water issues.

14. Adjourn.

The meeting was adjourned at 8:30 p.m.